SUPREME COURT, U.S.
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No. 92-1559

IN THE
Supreme Court of the United States
OCTOBER TERM, 1992

IMEE MARCOS-MANOTOC,
Petitioner,
v.
AGAPITA TRAJANO,
Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals

REPLY BRIEF IN SUPPORT OF PETITION FOR A WRIT OF CERTIORARI

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I. RESPONDENT'S DECLINATION TO DEFEND THE JUDGMENT BELOW DEMONSTRATES THE NEED FOR REVIEW.

Petitioner demonstrated (pet. pp. 10-12) that the holding of the court below that the Alien Tort Statute, 28 U.S.C. § 1350, is a grant of *worldwide* jurisdiction to the district courts is in irreconcilable conflict with the repeated declarations of this Court that Acts of Congress "apply only within the territorial jurisdiction of the United States unless Congress clearly states otherwise." *Smith v. United States*, No. 91-1538, —— U.S. ——, —— (1993), *quoting, Equal Employment Opportunity Commission v. Arabian American Oil Co.*, 499 U.S. ——, —— (1991). Respondent silently concedes this to be true and does not even attempt to defend the holding of the court of appeals on this issue.

Petitioner also demonstrated (pet., pp. 8-10) that the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. §§ 1330, 1361 et seq., is applicable to Mrs. Manotoc in her official capacity as a person controlling the operation of the Military Intelligence Service of the Republic of the Philippines and that the decision below assuming jurisdiction under the Alien Tort Statute without regard to FSIA is in irreconcilable conflict with the unambiguous holding of the Court in *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428 (1989). Respondent offers no serious contrary argument. There is none.

II. RECENT LEGISLATION HIGHLIGHTS THE NEED FOR REVIEW OF THE JUDGMENT BELOW.

Unable to defend the decision below, respondent attempts to minimize its importance. Respondent suggests (Resp. pp. 5-7) that the recent enactment by Congress of the Torture Victim Protection Act, Pub. L. 102-256, 106 Stat. 73 ("TVPA"), lessens the need for review of the unprecedented decision of the court of appeals. Precisely the reverse is true. Review of the judgment below is required not only to vindicate the authority of this Court but to prevent a panel of one court of appeals from frustrating the expressed intent of Congress that United States courts *not* assume jurisdiction in cases brought by alien plaintiffs alleging mistreatment at the hands of officials of their own governments unless such plaintiffs have first exhausted available remedies in "the place in which the conduct giving rise to the claim occurred." 106 Stat. 73, 74.

As petitioner demonstrated, it was only after the committees of Congress in which TVPA had languished for many years added this provision to the bill that a majority of either House was willing to enact it.

The decision below ignores this recent expression of congressional purpose. The effect of the decision below

is the same as if the court of appeals had simply ordered that section 2(b) of TVPA be repealed.

CONCLUSION

The conflict between the decision of the court of appeals and the controlling decisions of this Court is, of itself, sufficient reason for review. When there is added the conflict between the decision below and the statute Congress recently enacted the need for review becomes, we submit, clear beyond argument. For the foregoing reasons, and the reasons stated in the petition, certiorari should be granted.

Respectfully submitted,

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